

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Firm #20-8104894

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In Re:

Chapter 7

NIRMAL BAL AND KULWINDER KAUR,
Debtors.

Case No.: 809-77207-REG

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NIRMAL BAL AND KULWINDER KAUR,

Plaintiffs,

Adv. Pro. No.

vs.

INTERNAL REVENUE SERVICE
AS AGENT FOR THE UNITED
STATES OF AMERICA,

Defendant.

-----X
COMPLAINT TO DETERMINE DISCHARGEABILITY OF DEBT

NIRMAL BAL AND KULWINDER KAUR, the debtors/plaintiffs herein, by their attorneys, LESTER & ASSOCIATES, as and for their Complaint alleges:

1. The debtors/plaintiffs herein filed a petition for relief under 11 U.S.C. Chapter 7 on September 25, 2009.

2. This Court has jurisdiction herein pursuant to 28 U.S.C. 157, 1334, and 11 U.S.C. 523. This action is a core proceeding under 28 U.S.C. 157.

3. Venue of this action is properly laid in this Court under 28 U.S.C. 157.

4. 11 U.S.C. section 523(a)(1)(B)(ii) states that;

"A discharge under 727, 1141, 1228[a] 1228(b), or 1328(b) does not discharge an individual debtor from any debt... for a tax or custom duty... [if a return] was filed or given after the date on which such return, report, or notice was last due, under applicable law or under any extension, and after two years before the date of the filing of the petition."

5. In the case at bar, the plaintiff is attempting to discharge their taxes for 2001-2003. The returns and any extensions were filed well before the filing of this case. Upon information and belief, these returns were due, at the latest, to the Internal Revenue Service more than three (3) years prior to the filing of this case and were filed more than two years prior to the filing. As a matter of law, the tax debts of these debtors are dischargeable under 11 U.S.C section 523(a)(1)(B)(ii) (even when figuring in tolling periods).

6. Plaintiff's Chapter 7 case was filed on September 25, 2009. In their schedules, the Plaintiffs listed a debt to the Internal Revenue Service (hereinafter "IRS") in the amount of \$25,000.00 as priority (See Exhibit "A") as that is what debtors believed the debt to be.

7. Based upon correspondence with the IRS, they allege that the debtor owes in excess of \$19,996.85 for 2001 through 2003 (See Exhibit "B").

8. The tax debt that Plaintiff claims is dischargeable was assessed as follows:

Tax Year Ending	Date Return Filed	Date Tax Assessed
12/31/01	04/15/02	03/18/02
12/31/02	05/19/03	05/19/03
12/31/03	04/26/04	04/26/04

9. The claim for taxes filed for the year of 2001 through 2003 are the ones that are dischargeable in Plaintiff's above entitled bankruptcy case by virtue of 11 U.S.C. 523(a)(1), in that;

(a) this income tax was for the tax years, to wit 2001 through 2003 in which the taxes were last due, including all extensions, more than three years before the filing of Plaintiff's bankruptcy case, and

(b) Upon information and belief, all tax returns for those years were actually filed by Plaintiffs more than two years before the filing of the bankruptcy case, and

(c) Plaintiffs are informed and believe that the taxes for those years were assessed more than 240 days before the filing of this bankruptcy case.

WHEREFORE, affirmants requests that:

The Court determine that the 2001 through 2003 tax debts owed by the debtors to IRS are fully dischargeable, and for such other and further relief as this court deems just and proper.

Dated: Garden City, New York
November 18, 2009

s/ Roy J. Lester

ROY J. LESTER
LESTER & ASSOCIATES, PC
600 Old Country Road, Ste 229
Garden City, New York 11530
(516) 357-9191

EXHIBIT "A"

In re **Nirmal S. Bal,
Kulwinder Kaur**

Case No. **8-09-77207**

Debtors

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether the husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic support obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☐ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,950* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$5,400* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,425* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).

☒ **Taxes and certain other debts owed to governmental units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to maintain the capital of an insured depository institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507(a)(9).

☐ **Claims for death or personal injury while debtor was intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

In re **Nirmal S. Bal,
Kulwinder Kaur**Case No. **8-09-77207**

Debtors

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS
(Continuation Sheet)**Taxes and Certain Other Debts
Owed to Governmental Units**

TYPE OF PRIORITY

CREDITOR'S NAME, AND MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions.)	C O D E D E B I T O R	H W J C	Husband, Wife, Joint, or Community DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	C O N T I N G E N T	U N L I Q U I D A T E D	D I S P U T E D	AMOUNT OF CLAIM	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
								AMOUNT ENTITLED TO PRIORITY
Account No.			2001-2006					
IRS - Special Procedures 10 Metro Tech Center 625 Fulton Avenue Brooklyn, NY 11201		J	Federal Tax Lien					0.00
							25,000.00	25,000.00
Account No.								
Account No.								
Account No.								
Account No.								
Subtotal								0.00
(Total of this page)							25,000.00	25,000.00
Total								0.00
(Report on Summary of Schedules)							25,000.00	25,000.00

Sheet **1** of **1** continuation sheets attached to
Schedule of Creditors Holding Unsecured Priority Claims

EXHIBIT "B"



Internal Revenue Service

United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Request Date: 05-29-2009

Response Date: 05-29-2009

Tracking Number: 100045041097

Account Transcript

FORM NUMBER: 1040

TAX PERIOD: Dec. 31, 2001

TAXPAYER IDENTIFICATION NUMBER: 096-72-5589

SPOUSE TAXPAYER IDENTIFICATION NUMBER: 128-78-4454*

NIRMAL S & KULWINDER BAL
40 MIDDLE LN
JERICHO, NY 11753-2236-406

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	6,162.00	
ACCRUED INTEREST:	3,297.40	AS OF: May 25, 2009
ACCRUED PENALTY:	1,540.50	AS OF: May 25, 2009

ACCOUNT BALANCE
PLUS ACCRUALS
(this is not a
payoff amount): 10,999.90

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

EXEMPTIONS:	05	FILING STATUS: Married Filing Joint
ADJUSTED GROSS INCOME:	41,848.00	
TAXABLE INCOME:	0.00	
TAX PER RETURN:	6,362.00	
SE TAXABLE INCOME TAXPAYER:	41,584.00	
SE TAXABLE INCOME SPOUSE:	0.00	
TOTAL SELF EMPLOYMENT TAX:	6,362.00	

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER) Apr. 15, 2002
PROCESSING DATE Mar. 18, 2002

TRANSACTIONS				
CODE	EXPLANATION OF TRANSACTION	CYCLE	DATE	AMOUNT
150	Tax return filed 19221-047-23903-2	20021008	03-18-2002	\$6,362.00
610	Payment with return		02-08-2002	-\$100.00
610	Payment with return		02-13-2002	-\$100.00
971	Tax period blocked from automated levy program		07-08-2002	\$0.00
971	Installment agreement established		11-12-2002	\$0.00
971	Tax period blocked from automated levy program		06-02-2003	\$0.00
971	Collection due process Notice of Intent to Levy -- issued		05-16-2003	\$0.00
971	No longer in installment agreement		05-19-2003	\$0.00

Tracking Number: 100045041097

status

582	Lien placed on assets due to balance owed	01-02-2004	\$0.00
971	Installment agreement established	12-29-2003	\$0.00
971	Tax period blocked from automated levy program	09-20-2004	\$0.00
971	No longer in installment agreement status	09-06-2004	\$0.00
971	Installment agreement established	09-17-2004	\$0.00
971	Tax period blocked from automated levy program	04-10-2006	\$0.00
971	No longer in installment agreement status	03-27-2006	\$0.00
971	Installment agreement established	05-08-2006	\$0.00
971	Tax period blocked from automated levy program	03-05-2007	\$0.00
971	No longer in installment agreement status	02-19-2007	\$0.00
971	Installment agreement established	08-11-2008	\$0.00

This Product Contains Sensitive Taxpayer Data



Internal Revenue Service

United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Request Date: 05-29-2009
Response Date: 05-29-2009
Tracking Number: 100045041096

Account Transcript

FORM NUMBER: 1040

TAX PERIOD: Dec. 31, 2002

TAXPAYER IDENTIFICATION NUMBER: 096-72-5589
SPOUSE TAXPAYER IDENTIFICATION NUMBER: 128-78-4454*

NIRMAL S & KULWINDER BAL
40 MIDDLE LN
JERICO, NY 11753-2236-406

001735

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	1,323.13	
ACCRUED INTEREST:	586.34	AS OF: May 25, 2009
ACCRUED PENALTY:	312.96	AS OF: May 25, 2009

ACCOUNT BALANCE
PLUS ACCRUALS
(this is not a
payoff amount): 2,222.43

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

EXEMPTIONS:	05	FILING STATUS: Married Filing Joint
ADJUSTED GROSS INCOME:	8,580.00	
TAXABLE INCOME:	0.00	
TAX PER RETURN:	1,304.00	
SE TAXABLE INCOME TAXPAYER:	8,525.00	
SE TAXABLE INCOME SPOUSE:	0.00	
TOTAL SELF EMPLOYMENT TAX:	1,304.00	

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER) Apr. 15, 2003
PROCESSING DATE May 19, 2003

TRANSACTIONS			
CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
150	Tax return filed 19221-109-34417-3	20031908 05-19-2003	\$1,304.00
276	Penalty for late payment of tax	20031908 05-19-2003	\$13.04
196	Interest charged for late payment	20031908 05-19-2003	\$6.09
971	Tax period blocked from automated levy program	08-11-2003	\$0.00
582	Lien placed on assets due to balance owed	01-02-2004	\$0.00
971	Installment agreement established	12-29-2003	\$0.00
420	Examination of tax return	04-22-2004	\$0.00
971	Tax period blocked from automated levy program	09-20-2004	\$0.00

Tracking Number: 100045041096

971	No longer in installment agreement status	09-06-2004	\$0.00
971	Installment agreement established	09-17-2004	\$0.00
421	Closed examination of tax return	10-25-2004	\$0.00
971	Tax period blocked from automated levy program	04-10-2006	\$0.00
971	No longer in installment agreement status	03-27-2006	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	05-06-2006	\$0.00
971	Collection due process Notice of Intent to Levy -- return receipt signed	05-16-2006	\$0.00
971	Installment agreement established	05-08-2006	\$0.00
971	Tax period blocked from automated levy program	03-05-2007	\$0.00
971	No longer in installment agreement status	02-19-2007	\$0.00
971	Installment agreement established	08-11-2008	\$0.00

This Product Contains Sensitive Taxpayer Data



Internal Revenue Service

United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Request Date: 05-29-2009
Response Date: 05-29-2009
Tracking Number: 100045041100

Account Transcript

FORM NUMBER: 1040

TAX PERIOD: Dec. 31, 2003

TAXPAYER IDENTIFICATION NUMBER: 096-72-5589
SPOUSE TAXPAYER IDENTIFICATION NUMBER: 128-78-4454*

NIRMAL S & KULWINDER BAL
40 MIDDLE LN
JERICHO, NY 11753-2236-406

--- ANY MINUS SIGN SHOWN BELOW SIGNIFIES A CREDIT AMOUNT ---

ACCOUNT BALANCE:	4,535.55	
ACCRUED INTEREST:	1,746.77	AS OF: May 25, 2009
ACCRUED PENALTY:	492.20	AS OF: May 25, 2009

ACCOUNT BALANCE
PLUS ACCRUALS
(this is not a
payoff amount): 6,774.52

** INFORMATION FROM THE RETURN OR AS ADJUSTED **

EXEMPTIONS:	04	FILING STATUS: Married Filing Joint
ADJUSTED GROSS INCOME:	32,724.00	
TAXABLE INCOME:	11,024.00	
TAX PER RETURN:	1,848.00	
SE TAXABLE INCOME TAXPAYER:	19,549.00	
SE TAXABLE INCOME SPOUSE:	0.00	
TOTAL SELF EMPLOYMENT TAX:	2,991.00	

RETURN DUE DATE OR RETURN RECEIVED DATE (WHICHEVER IS LATER) Apr. 15, 2004
PROCESSING DATE Apr. 26, 2004

TRANSACTIONS			
CODE	EXPLANATION OF TRANSACTION	CYCLE DATE	AMOUNT
150	Tax return filed 08221-089-27882-4	20041508 04-26-2004	\$1,848.00
806	W-2 or 1099 withholding	04-15-2004	-\$19.54
276	Penalty for late payment of tax	20041508 04-26-2004	\$9.14
196	Interest charged for late payment	20041508 04-26-2004	\$2.75
971	Installment agreement established	12-29-2003	\$0.00
420	Examination of tax return	06-24-2004	\$0.00
971	Tax period blocked from automated levy program	09-20-2004	\$0.00
971	No longer in installment agreement status	09-06-2004	\$0.00

Tracking Number: 100045041100

971	Installment agreement established	09-17-2004	\$0.00
560	IRS can assess tax until	02-17-2006	\$0.00
240	Miscellaneous penalty IRC 6662(c), (d), (e), (f), (g), or (h) Accuracy-Related Penalty 49247-469-00367-6	20061208 04-03-2006	\$449.20
300	Additional tax assessed by examination 49247-469-00367-6	20061208 04-03-2006	\$2,246.00
421	Closed examination of tax return	04-03-2006	\$0.00
971	Tax period blocked from automated levy program	05-22-2006	\$0.00
971	No longer in installment agreement status	05-08-2006	\$0.00
971	Installment agreement established	05-08-2006	\$0.00
971	Tax period blocked from automated levy program	03-05-2007	\$0.00
971	No longer in installment agreement status	02-19-2007	\$0.00
971	Collection due process Notice of Intent to Levy -- issued	07-31-2008	\$0.00
971	Installment agreement established	08-11-2008	\$0.00

This Product Contains Sensitive Taxpayer Data

In Re:

NIRMAL BAL AND KULWINDER KAUR,

Debtors.

COMPLAINT

LESTER & ASSOCIATES, P.C.
Attorney(s) for Debtor(s)
600 OLD COUNTRY ROAD
SUITE 229
GARDEN CITY, NY 11530
(516) 357-9191

To
Attorney(s) for

Service of a copy of the within
is hereby

admitted.

Dated,

Attorney(s) for

Sir: Please take notice

NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

20

NOTICE OF SETTLEMENT

that an order

of which the within is a true copy will be presented for settlement to the HON.
one of the judges of the within named Court, at
at

on the
Dated,

day of

20